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In re Application of: Ido, et al.
Application No. 10/626,454
Filed: 23 July 2003
For: STORAGE SYSTEM

DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P. §708.02(VIII)

This is a decision on the petition filed 7 September 2004, and its duplicate copy that was resubmitted 3 February 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed 7 September 2004 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

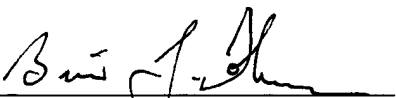
Applicant's petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not point out specific limitations in each of the independent claims that may distinguish the invention over the references. Petitioner simply recites all the independent claims and then proffers one general summation of the claimed features with an averment that none of the references meet this language. This one instance of claim language precedes a list of reference-descriptions, and serves as the petition's basis for distinguishing the independent claims from the given references. This claim language, however, is not commensurate with the limitations in each of the independent claims. For example, claims 20, 23, and 26 do not contain a limitation for writing data as specified in the petition's "Discussion of the References". Petitioner should review each independent claim and identify specific limitations that may make the claim patentable over the relevant reference.

Petitioner must show, with respect to each reference, how the claimed subject matter distinguishes from the prior art in accordance with the requirements of 37 CFR 1.111 (b) and (c). As part of the required "detailed discussion" of each reference, the petition needs to particularly point out certain independent-claim limitations in relation to the given reference and specify "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.


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